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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,469	12/11/2000	Takeya Okamoto	ADACHI P134USP2	7448
20210	7590	12/01/2004	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			WINDER, PATRICE L	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/734,469

**Applicant(s)**

OKAMOTO, TAKEYA

**Examiner**

Patrice Winder

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code 102 not included in this action can be found in a prior Office action.
2. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper, USPN 5,757,907 (hereafter referred to as Cooper).
3. Regarding claim 1, Cooper taught a communication system for controlling use of program related element in a user system, the user system including a memory for storing the program related element, processor for executing a program or operating on data associated with the program related element and input devices and wherein a program related element includes at least one of a program, data or a combination of a program and data (column 2, lines 26-46), the communication system comprising  
in a user system, a memory for storing an access definition including a period of use definition defining a period in which the user system may access the program related element (column 8, lines 15-33), and  
an access controller for generating requests for access to the program related element and for controlling access to the program related element (column 2, lines 43-46), wherein the access controller is responsive to the period of use definition for generating a request for access to the program related element only during a period defined by the period of use definition (column 8, lines 34-46),

in a host facility, a memory for storing an authorization key for controlling access by the user system to the program related element (column 10, lines 3-14; column 22, lines 21-26),

the host facility being responsive to a request for access to the program related for communicating the authorization key to the user system (column 10, lines 3-14), and

the access controller being responsive to the authorization key for allowing the user system access to the program related element in conformance with the parts of the associated use definition (column 10, lines 14-24).

4. Regarding dependent claim 2, Cooper taught the program related element is resident in the user system (column 8, lines 15-22).

5. Regarding dependent claim 3, Cooper taught the program related element is loaded into the user system from a host system (column 9, lines 48-63).

6. Regarding dependent claim 4, Cooper taught the program related element is transmitted into the user system from a second user system (column 9, lines 11-13).

7. Regarding dependent claim 5, Cooper taught the program related element is a program (column 9, lines 44-58), the authorization key is an unlocking key (column 11, lines 39-44), and the access controller is responsive to the unlocking key for permitting access to the program related element (column 13, lines 55-64).

8. Regarding dependent claim 6, Cooper taught the authorization key is a decryption key (column 15, lines 28-34, column 16, lines 19-25), the program related element is encrypted (column 16, lines 9-14), and the access controller include a decryption mechanism responsive to the decryption key to decrypt the program related

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element to provide the decrypted program related element to the user system (column 16, lines 9-46).

9. Regarding dependent claim 7, Cooper taught the program related element is generated and encrypted in a second user system (column 21, lines 35-46), the program related element is transmitted to the user system (column 9, lines 11-13), and an authorization key and associated access definition corresponding to the program related element is generated and stored in the host facility in association with the generation and encryption of the program related element (column 10, lines 3-14, column 22, lines 21-26).

10. Regarding dependent claim 8, Cooper taught the access definition includes at least one of a start date/time and an end date/time defining a period in which access to the program related element is permitted (column 11, line 62 – column 12, line 3).

11. Regarding dependent claim 9, Cooper taught the access definition includes at least one user period defining at least one corresponding access period during which the user system may access the program related element (column 9, lines 20-34) and wherein the access controller is responsive to an access period terminating access to the program related element at the expiration of the access period (column 9, lines 32-34).

12. Regarding dependent claim 10, Cooper taught the access definition includes conditions to be satisfied before the user system may access the program related element (column 8, lines 34-56).

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13. Regarding claim 11, Cooper taught a method for controlling use of program related element in a user system including a memory, processor and input devices for storing the program related element and for executing a program or operating on data associated with the program related element and wherein a program related element includes at least one of a program, data or a combination of a program and data (column 2, lines 26-46), the method comprising the steps of:

in a host facility, storing an authorization key controlling access by the user system to the program related element and an access definition including a period of use definition defining a period in which the user system may access the program related element (column 10, lines 3-14, column 22, lines 21-26),

in the user system, storing the access definition including the period of use definition defining a period in which the user system may access the program related element, reading the access definition and generating a request for access to the program related element only during a period defined by the period of use definition (column 8, lines 15-46),

in the host facility, responding to a request for access to the program related element by communicating the authorization key user system (column 10, lines 3-14), and

in the user system, responding to the authorization key by allowing the user system access to the program related element (column 8, lines 34-46).

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14. Regarding claim 21, Cooper taught a communication system for transmitting at least one of the program, the data, and a combination of the program and data from a host facility to a communication terminal device (column 9, lines 1-13), comprising:

an input device for inputting instructions to execute the program or to process the data (column 7, lines 19-33);

storage means for storing the program, the data, or a combination of the program and data (column 7, lines 14-16, column 8, lines 15-25);

executing means for executing the program stored in said storage means or executing data processing by using the data stored in said storage means, in accordance with instructions from said input device (column 7, lines 14-16, column 8, lines 15-25);

a clock means for tracking a time of occurrence of instructions to execute the program or process the data (column 9, lines 29-34);

an access controller responsive to a period of use definition defining a period in which executing means is allowed to execute the program or process the data (column 8, lines 34-46) and

to the clock means for generating a request to a host facility for an authorization key only during the period in which the executing means is allowed to execute the program or process the data to access the program (column 8, lines 34-37, column 10, lines 20-29),

in a host facility, a memory for storing an authorization key controlling access by the user system to the program related element, wherein the host facility is responsive

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to the request for an authorization key to provide the authorization key to the access controller (column 10, lines 3-14, column 22, lines 21-26), and

wherein the access controller is responsive to the authorization key for granting access to execute the program or process the data (column 10, lines 14-24), and

interfering with execution of the program and processing of the data when the authorization key is not provided from the host facility (column 8, lines 12-22).

15. The language of claims 12-20 is substantially the same as previously rejected claims 2-10. Therefore, claims 12-20 are rejected on the same rationale as previously rejected claims 2-10, respectively.

### ***Response to Arguments***

16. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant's arguments filed June 25, 2004 have been fully considered but they are not persuasive.

18. Applicant argues – “For this reason, it is the belief of Applicant that the subject matter at issue in the present Application predates the Cooper et al., '907 reference such that Cooper et al., '907 is not a correct prior art reference with respect to the subject matter of claim 21.”

a. Applicant previously admitted (see page 16 of the response filed on June 25, 2004) that “...the elements and aspects of the present invention recited and claimed in claim 21 were not introduced into the present Application with the filing



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of the present Application, but originally appeared in parent U.S. Application serial No. 08/555,400 filed on November 9, 1996..." Therefore, Applicant has admitted that certain "elements" were not present in previous Applications earlier than November 9, 1996. Because the present Application claims those "elements" the earliest priority date that can be granted is November 9, 1996.

Thus, Cooper is relevant and useable prior art.

19. Applicant argues – "In response, the Applicant has amended the Cross References to Related Applications to reflect what Applicant believes to be the correct chain of priority ..."

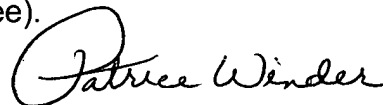
b. At present USPTO records do not show that application 09/109,784 is a continuation in part of application 08/642,560.

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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 703-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrice Winder  
Primary Examiner  
Art Unit 2145

November 24, 2004